MINIMUM-WAGE LAWS

Minimum-wage laws are no longer a subject of merely academic discussion in the United States. Massachusetts has already legislated; Ohio has given constitutional sanction to the principle of minimum-wage legislation; two other states, Minnesota and Wisconsin, considered in 1910 bills which, though they failed to pass at the first session, will be reintroduced in 1913. The Wisconsin bill, drafted by Professor John R. Commons, will have the powerful support of the State Industrial Commission. In Oregon an initial measure has been drafted and will doubtless be introduced during 1913. There is, however, at present not one wage board in existence, and it seems probable that there will be none before July, 1913.

As usual, in matters of industrial legislation, Massachusetts marches conservatively at the head of the line of experimenting states. A bill creating a permanent Minimum-Wage Commission was signed by Governor Foss on June 4, 1912. It provided for the appointment of three commissioners, "of whom one may be a woman." The first Massachusetts commissioners, appointed, but without power to act before July 1, 1913, are H. LaRue Brown, a lawyer, to whose skill in promoting its passage the enactment of the law is largely due; Miss Mabel Gillespie, secretary of the Massachusetts Women's Trade Union League; and Arthur N. Holcombe, of the Harvard University faculty of economics who is also chairman of the Special Committee on Minimum Wage Boards of the National Consumers' League.

The initial duty of the Commission is "to inquire into the wages paid to the female employees in any occupation in the commonwealth, if the Commission has reason to believe that the wages paid to a substantial number of such employees are inadequate to supply the necessary cost of living and to maintain the workers in health." As a basis for its activities, the Commission is empowered to request the director of the state bureau of statistics to gather for its use statistics and other data. Such work is to be paid for out of the

appropriation of the Commission. Whenever after investigation the Commission considers that in a given occupation the wages paid to a substantial number of female employees are inadequate to supply the necessary cost of living and to maintain the workers in health, it becomes the duty of the commission to establish a wage board for that occupation.

The personnel of the wage boards is specified with exactness. Each is to consist of not less than six representatives of employers in the occupation in question, and of an equal number of representatives of the female employees, and of one or more disinterested persons appointed by the Commission to represent the public. The latter, however, must not exceed one-half of the number of representatives of either of the other parties. The Commission selects from among the representatives of the public the chairman of each board. It is the duty of the wage board to consider the needs of the employees, the financial condition of the occupation, and the probable effect thereon of any increase in the minimum wages paid. Each board is to endeavor to determine a wage rate suitable (either time or piece rate) for a woman or girl of ordinary ability in that particular occupation, and separate suitable rates for learners and apprentices and minors below the age of 18 years. When two-thirds of the members of a wage board come to an agreement, they are to report it to the Commission "with the reasons therefor and facts relating thereto." Such agreement is known as a "determination," a term borrowed from the similar legislation of Australia and England. With the determination the wage board is required to supply to the Commission the fullest possible list of employers who pay wages less than the rates recommended in the determination. The Commission may approve the action of the wage board or reject it in whole or in part, or resubmit it to the wage board or to a new wage board. Whenever the Commission provisionally approves a determination, a fortnight's notice must be given to all employers known to be paying less than the minimum wage so approved, that there will be a public hearing. If after the hearing the Commission finally approves the determination, it is empowered to enter a decree and to note on it the names of employers who fail or refuse to accept the minimum thus arrived at and to abide by it.

Thus far the Massachusetts law follows rather closely the English and Australian precedents, with the important difference that it applies only to female employees. What follows is, however, in wide deviation in the direction of futility. In the closing days of the session, the opponents of the bill succeeded in substituting for the enforcing provisions a ruinously costly method of publicity. For, within a fortnight after a determination is approved, the Commission must publish the names of all recalcitrant employers, together with the material part of the findings and a statement of the minimum wages paid by each, in type not smaller than that in which the news matter is printed in at least four newspapers in each county in the commonwealth. This expense must be incurred even though the industry may exist in only one county or one town in the state. A majority of the Commission must sign the publication. Both the newspapers and the commissioners are specifically protected against action for damages, except in case of wilful misrepresentation of the facts. This provision for publication threatens the extinction of the Commission's modest appropriation of $5,000 with the publication of the first decree or determination to which any employer may prove refractory.

If, on the other hand, an employer files with the Supreme or Superior Court a statement that compliance with the decree would imperil the prosperity of the business to which the same is made applicable, the court must review the decree and may revoke it.

But two penalties are provided, the chief one curiously enough lying against any newspaper which refuses or neglects to publish at the usual rates the determinations, decrees, or notices of the Commission. For each such offense there is imposed a fine of $100. The other penalty is a fine of $25, imposed upon "any employer who discharges or in any other manner discriminates against any employee because such employee has testified, or is about to testify, or because such employer believes that said employee may testify, in any investigation or proceeding relative to the enforcement of this act."

There is nothing permanent or final in the action of the Commission. Even after a wage rate has been established in an occupation, the Commission may, upon petition of either employers or

employees, reconvene the wage board or establish a new wage board, and any recommendation made by it must be dealt with in the same manner as the original recommendation.

The act as adopted by the Massachusetts legislature is a much-mangled form of the bill proposed by a special commission of five members who sat in 1911, investigated wages in certain selected industries, and reported to the legislature of 1912, submitting a bill and recommendations. The special commission was composed of President Henry Lefavour, of Simmons College, Mr. Richard Olney, II, and Mr. George Anderson, both of the Massachusetts bar, Mr. John Golden, the secretary of the Textile Workers' Union (affiliated with the American Federation of Labor), and Mrs. Glendower Evans, a member of the Massachusetts Women's Trade Union League. The secretary was Miss Mary W. Dewson. The commission was financed chiefly by Mrs. Evans, under whose supervision and inspiration a large share of its work was done.

The report of the special commission is a model which may profitably be followed by other states. In the few months allotted to it, the special commission accomplished a highly intelligent study of the living conditions, in Boston, of women employed in department stores, laundries, and candy factories, and of the wages paid them. Among official documents the report is unique in its human quality and the vividness of presentation. The appendices deal, in addition to the statistical matter, with "The Woman Adrift," "The Human Story," and the question "What Is a Living Wage?"

The special commission was not responsible for the enfeebling provisions of the act as finally passed, which defer action by the new permanent Commission until July, 1913, open the way for revocation by the courts of the Commission's determinations and decrees, and require ruinously costly advertising. These were inserted in the closing days of the legislature to save the measure from failure to pass at all.

The special commission was instructed by the statute which created it "to study the matter of wages of women and minors." This restriction of its field to women and minors was in accordance

with the Massachusetts tradition of making laws especially in the interest of the health and welfare of women. A second consideration was, perhaps, the hope that the courts might be more likely to sustain a new application of state intervention if it were confined to women. The work and wages of men and women, however, interlock so closely that studies of the pay of women with the view to ascertaining what constitutes a living wage for them will entail turning the light upon men's wage rates in the same industries. Such studies will also subject to scrutiny the earnings of men who are in wholly unrelated occupations, but who belong to the same families as the women whose wages are under consideration. Indeed, the wages of women, especially of married women, depend primarily upon the wages of men.

It is the American tradition that men support their families, the wives throughout life and the children at least until the fourteenth birthday. In recent years this tradition has, however, been rapidly giving way under the pressure of immigration. The cigar trade, the textiles, the laundries, the department stores, and an ever-widening range of other occupations call increasingly for the cheap labor of women. Married women immigrants from the nations of southeastern Europe respond to this demand, adding themselves in ever-increasing proportion to the masses of young daughters of workingmen, whose youth formerly accounted for the fact that we habitually spoke, in the nineteenth century, of working girls, not of working women.

The Massachusetts law does not tend to check this retrograde movement. It does not face the question: Why is the man no longer the breadwinner? It does not contribute toward conserving the family and the home with the man as its economic support. This is important because, as the Massachusetts law is the first one in this country, other states may incline to accept it as their model, in place of the more comprehensive Australian and English laws.

For the year during which the Massachusetts Commission is in existence but without power to act, the statute creating it serves chiefly as a milestone on the road of industrial legislation. In it Massachusetts has adopted in principle the institution of mini-

mum-wage boards. In industries employing women and girls it has abandoned definitely the position that the pay-roll is a trade secret.

The Massachusetts law has been dealt with first because of its priority in time. The Massachusetts commission of 1911 had completed its task and expired, and its successor, the permanent Commission of 1912, had been created by statute and its members appointed by Governor Foss, before the people of Ohio voted, on September 3, 1912, to adopt thirty-two amendments to their state constitution. Among the amendments that one received the second largest number of votes which reads as follows: "Laws may be passed fixing and regulating the hours of labor, establishing a minimum wage, and providing for the comfort, health, safety, and general welfare of all employees; and no other provision of this constitution shall impair or limit this power." This amendment applies to men as well as to women. It expressly connects the establishment of a minimum wage with the concepts of health and working hours. This is significant, because the Supreme Court of the United States has held that freedom of contract of adults, both men and women, may be abridged in the matter of working-hours, if it be shown to the satisfaction of the court that the legislature has acted for the benefit of the health of the employees. The Ohio amendment specifies that "no other provision of this constitution shall impair or limit this power." If, henceforth, an Ohio court seeks to annul on grounds of constitutionality a statute providing for minimum-wage rates, it must find its basis of rejection in the constitution of the United States, not in the constitution of Ohio.

The vote on the amendment is clearly a part of the nation-wide movement to get for the people the power to intervene by legislation in our rapidly changing industrial conditions. In some states, as in Ohio, this movement extends the power of the legislature. In others power is given, in the initiative and referendum, directly to the voters themselves. In either case, however, the courts must be reckoned with as the ultimate lawmakers. In Ohio the outlook for the prospective minimum-wage boards' laws is greatly

improved by another new amendment to the constitution which provides that a statute shall not be held unconstitutional unless all the judges but one agree that it is so. The legislature is, moreover, free to proceed as it may deem best, no restriction being placed upon the method by which it is to arrive at the minimum wage. The legislature thus given plenary power unprecedented in this country, confronts the task of creating machinery for ascertaining existing wages and determining, for future use, minimum rates which the courts cannot fail to recognize and uphold as reasonable rates.

The large popular vote in favor of the amendment gives promise of prompt action during the legislative session of 1913. Under these circumstances, it would appear that more immediate practical results, in the wider field of *men's and women's* occupations, may be looked for in Ohio than are yet in process of achievement in Massachusetts.

The experience of the textile workers at Lawrence in the present year shows convincingly the need of minimum-wage boards for both men and women in relation to the nation-wide effort for a shorter working-day, a shorter working-week, Sunday rest, and a definite period of rest at night. The nation cannot afford to have the income of men, women, and children shortened *pari passu* with their working-hours, when that income is already at the lowest level of maintenance. Such cutting of wages would make wage-earning people view with alarm every effort to free them by statute from the overstrain of excessive working-hours. By such wage reduction legislation in the general direction of rational working-hours would become an instrument for intensifying poverty rather than a means for promoting the public health.

The urgent need of wage boards is indicated by the experience of the Consumers' League of New York City, which strove for many years, by the methods of investigation and persuasion, to induce the leading retail merchants of New York City to pay their women clerks 18 years old and older, who had been one year in the continuous service of the employer, not less than six dollars a week. If this minimum had been adopted and paid in good faith by all the

merchants, there would still have been a large body of cash children, bundle-wrappers, bookkeepers, and sales-clerks (employed less than a year) at work at a wage below six dollars. The minimum of six dollars a week was, however, never paid by all the merchants to all the employees for whom it was asked.

In the years 1907 and 1908, before the recent sudden rise in prices, Sue Ainslie Clark and Edith Wyatt conducted for the National Consumers' League a study of the actual expenditures of several hundred women and girls living away from their families, chiefly in New York City.[1] This modest record of two painstaking investigators in the service of the Consumers' League convinces its readers that women living away from their families in New York City cannot subsist upon eight dollars a week in decency and health with any allowance for reasonable recreation and with even the most meager provision for illness or for their declining years. This record is, however, not official, or exhaustive, or continuous. It came to an end with the publication of the book.

At present no consumer, however enlightened and conscientious, can know the varying wages paid. At the end, therefore, of twenty years of honest, faithful effort by the Consumers' League of New York City to apply the method of investigation, persuasion, and voluntary effort to the establishment of a living wage, that method has been finally abandoned and the policy adopted of working for legislation to create wage boards.

It is indeed incredible how lacking in continuity and scope are our data concerning wages in America.

It was the Pittsburgh Survey which brought to light the low pay and long hours of the steel workers, and dispelled the myth that steel workers are universally a part of an alleged aristocracy of labor. The investigation of the steel industry thus begun was continued and corroborated by the United States Bureau of Labor in a valuable report. It is still further carried forward by the United States Steel Corporation's own experts and by one stockholder, Charles C. Cabot, of Boston.

[1] Published later under the title "Working Girls' Budgets" in *McClure's Magazine*. The same material amplified and brought up to date was afterward issued in book form by Macmillan under the title *Making Both Ends Meet*.

It is the intent of laws creating wage boards to enlist in the difficult task of determining wages in certain subnormal industries the employers, the workers, and representatives of the consuming public; to bring to bear in each instance all the technical knowledge of the three sets of people richest in experience of the local details in that particular industry. From no other source can there be derived such trustworthy statements of fact, or such all-round judgments as to the relations of those facts. Compared with this threefold source of light, any particular study made of an industry by the federal census, or by a federal or a state bureau of labor statistics, or by a society, economic or philanthropic, is necessarily incomplete.

The state and federal bureaus to which students and lawmakers would in theory turn for knowledge are so ill equipped with money and trained investigators, they are so hampered by restrictions imposed by Congress and the state legislatures, that their output has not the continuity, fulness, and accuracy needed for the basis of wise lawmaking. If, however, they were amply supplied with funds, if they were staffed with experts as laymen commonly assume that they are staffed, it would still be true that no agency outside the industry itself can, in the nature of things, acquire such intimate knowledge of its needs and powers as the people within it, employers and workers comparing notes in a common effort to act upon the whole truth in the case.

Critics of wage boards object that, if these institutions become general, prices must rise with wages and a vicious circle ensue—the workers ultimately losing through higher prices all that they gain in increased wages. But the facts of industry afford no basis for this fear. In wide areas of industry prices irrespective of costs are notoriously determined by the trusts. Where no trust yet controls prices, where competition has free play, the objection that standardizing the lowest wages would inevitably raise prices does not hold. In the making of costly laces, for instance, an occupation in which for generations wages have been notoriously low, the whole wage increase would be paid by the consumers of luxuries. In greater or less degree, this holds of vast ranges of industry.

The investigation of the special commission showed that in

1911, in Boston, excessively low wages were paid by one manufacturer of high-priced candy, while a maker of cheaper grades was paying higher wages. "Comparisons, moreover, between individual factories whose wholesaling prices are nearly the same show a very marked contrast in wage scales. The wage scale, apparently, does not differ with the grade of goods made, but with the policy of the manufacturer in hiring labor."[1] In general there appeared to be no relation between wages and prices.

In the candy trade in Boston in 1911 it was found also that "the cost of labor per pound varies anywhere from $\frac{1}{4}$ of a cent on the cheapest grade of candy, wholesaling at 8 cents a pound, to $5\frac{1}{2}$ cents for the highest-grade chocolates, wholesaling at 50 cents a pound. The cost per pound for chocolates most commonly reported is 4 cents, although the wholesaling price varies somewhat. The variation in the selling is due to the quality of the material used. Chocolate ranges from 14 to 44 cents a pound. Nuts and fruits are more expensive than cream filling. The chief element of cost in candy is not labor but material."[2]

If, in any case, additional charges arise, consumers in prosperous circumstances can obviously meet them. Working people, on the other hand, would divide among vast numbers of consumers, and thus reduce to a minimum for each one the prophesied hardship—the increase in prices of the universal necessaries of life. That hardship is now concentrated in the dire experience of a more limited number of workers in the form of actual, conspicuous underpay.

The universally observed tendency is, however, that every improved standard of hours, wages, or conditions forced upon an industry for the good of the employees tends not to increase the retail price of the product, but to enhance the efficiency of the management. Improved apparatus already upon the market, but not installed by reason of the initial cost of installation, tends to be promptly installed when working-hours are shortened, or the age of working children raised by statute, or the wage scale of homeworkers fixed by an outside body.

[1] *Report of the Commission on Minimum Wage Boards*, 1912, p. 58.

[2] *Ibid.*, p. 40.

The Consumers' League recognizes a permanent task awaiting it in co-operating with state commissions and wage boards, in keeping alive hope, interest, and activity among the most industrially depressed women workers. It knows that the same qualities of youth and irresponsibility among the unorganized girls in factories will persist in the future which have kept their wages down in the past. And the same burden of lack of the English language, and dispersion of working-places, will weigh upon the newly immigrated workers, both men and women.

In September, 1908, the International Conference of Consumers' Leagues held in Geneva, Switzerland, unanimously approved of minimum-wage boards and adopted a resolution formally recommending all the participants in the conference to agitate in their own countries for legislation establishing such boards. Following this action the National Consumers' League of the United States at its annual meeting incorporated minimum-wage legislation as one plank in its ten years' program, and entered upon a campaign of education on the subject, which has been carried on with vigor.

The readiness of legislatures and voters to act after so brief an agitation of the subject is perhaps explained by the obviousness of all the factors of the problem. The increased cost of living is a universal daily experience which none can dispute. It affects voters and lawmakers and inclines their minds to act in response to appeals for relief in behalf of the most depressed wage-earners. The proposed method is, moreover, ready to our hands. It is commended by twenty years of experiment in Victoria. Its usefulness there has been shown by the action of the other Australian colonies which, with the single exception of West Australia, an industrially undeveloped region, have adopted it, while in no place has it ever been abandoned. Finally, the obvious reasonableness of the method itself in bringing to bear the experience of all the parties concerned doubtless completes the explanation.

The advocates of minimum-wage boards are animated by the hope that the boards may produce far-reaching indirect effects. Thus child labor can be more effectively minimized and school life prolonged, when unskilled fathers attain a living wage for the

maintenance of their families, and when minors must be paid a reasonable wage and can no longer be had for a song. Tuberculosis can be warded off when wage-workers can more universally afford a nutritious dietary, and the tuberculosis crusade may thus become a less hopeless undertaking. Those cases of insanity which arise from worry over insufficient wages combined with physical depletion due to a too low standard of living may reasonably be expected to diminish when wages are rationalized. And the same reasoning applies in great measure to alcoholism among wage-earners. The social evil can be combated when honest labor enables girls—as in tens of thousands of cases it now fails to do—to earn an honest living and enjoy a share of decent recreation. The blunt weapon of the strike for better wages is supplanted when the joint intelligence of the interested parties is brought to bear for their own benefit and that of the public.

In brief, the hope is cherished that through the extension of wage boards industry can be made increasingly to pay its own way in the form of living wages.

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